



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Cathleen Cox
Acting Director

December 1, 2010

RECEIVED

DEC 06 2010

Raul Gonzalez
City of Fresno
5607 West Jensen Avenue
Fresno, CA 93706

WASTEWATER MANAGEMENT

Subject: Dewatering Facility Upgrade, Fresno Clovis Regional Wastewater Reclamation Facilities
(Conditional Use Permit No. C-10-196)
SCH#: 2010111001

Dear Raul Gonzalez:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on November 30, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2010111001
Project Title Dewatering Facility Upgrade, Fresno Clovis Regional Wastewater Reclamation Facilities (Conditional
Lead Agency Use Permit No. C-10-196)
Fresno, City of

Type **Neg** Negative Declaration
Description The proposed Project is the construction and operation of new sludge dewatering facilities and associated yard piping, polymer storage, transformer, sludge conveyor and storage silo, and road paving improvements on a paved and graded site within the existing Regional Wastewater Reclamation Facilities site boundary.

Lead Agency Contact

Name Raul Gonzalez
Agency City of Fresno
Phone (559) 621-5290 **Fax**
email
Address 5607 West Jensen Avenue
City Fresno **State** CA **Zip** 93706

Project Location

County Fresno
City Fresno
Region
Lat / Long
Cross Streets Jensen Avenue & Comellia Avenue
Parcel No.
Township 14S **Range** 19E **Section** 22 **Base** MDB&M

Proximity to:

Highways Hwy 99, 180, 41
Airports No
Railways BNSF
Waterways
Schools No
Land Use LU: New facilities on existing wastewater facility site, no change in land use
Z: Public Facilities
GPLU: Regional Wastewater Reclamation Facilities.

Project Issues Air Quality; Archaeologic-Historic; Noise; Traffic/Circulation; Wildlife; Water Supply

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 6; CA Department of Public Health; State Water Resources Control Board, Division of Financial Assistance; Regional Water Quality Control Bd., Region 5 (Fresno); Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; Caltrans, District 7

Date Received 10/29/2010 **Start of Review** 11/01/2010 **End of Review** 11/30/2010

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



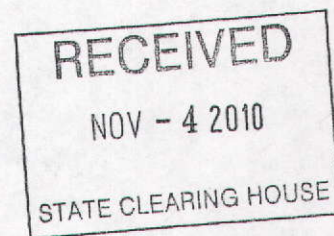
November 2, 2010

Bonique Salinas, Planner

City of Fresno

5607 West Jensen Avenue
Fresno, CA 93706

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2010111001
Re: SCH#20111001-CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Conditional Use Permit No. C-10-196, Fresno-Clovis Regional Wastwater Reclamation Facilities Dewatering Facility Upgrade Project; located in the City of Fresno; Fresno County, California

Dear Bonique Salinas:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amendment effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance. The lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. State law also addresses Native American Religious Expression in Public Resources Code §5097.9.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources were not identified within one-half mile of the Area of Potential Effect (APE). It is important to do early consultation with Native American tribes in your area as the best way to avoid unanticipated discoveries once a project is underway and to learn of any sensitive cultural areas. Enclosed are the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) of the Office of Historic Preservation (OHP), for

information on recorded archaeological data. This information is available at the OHP Office in Sacramento (916) 445-7000.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e).

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'. Discussion of these should be included in your environmental documents, as appropriate.

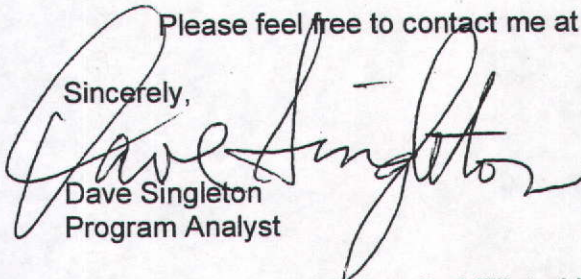
The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton", written over the typed name and title.

Dave Singleton
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse



State of California - The Natural Resources Agency

DEPARTMENT OF FISH AND GAME

Central Region

1234 East Shaw Avenue

Fresno, California 93710

(559) 243-4005

<http://www.dfg.ca.gov>

JOHN McCAMMAN, Director



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STATE CLEARING HOUSE

November 23, 2010

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Raul Gonzalez
City of Fresno
Wastewater Division
5607 West Jensen Avenue
Fresno, California 93706

Subject: Proposed Mitigated Negative Declaration (MND) and Initial Study
Fresno-Clovis Regional Wastewater Reclamation Facilities
Dewatering Facility Upgrade (CUP No. C-10-196)
SCH No. 2010111001

Dear Mr. Gonzalez:

The Department of Fish and Game (Department) has reviewed the information submitted by the City of Fresno (City) for the above Project. Project approval would allow the replacement of existing belt filter presses dewatering equipment with centrifuge dewatering equipment, construction of a new annex building, construction of a new silo, and pavement of new access roads on approximately eight (8) acres at the City of Fresno Wastewater Treatment Facility located south of West Jensen Avenue, between South Cornelia Avenue and South Chateau Fresno Avenue.

The proposed MND document indicates that burrowing owls (*Athene cunicularia*) are known to occur on percolation pond berms located approximately 0.25 miles from Project activities. Additional burrows were located along the road proposed for widening and paving; therefore, implementation of the Project has the potential to impact burrowing owls and mitigation measures are proposed.

Mitigation Measure BI-1 1. is not adequate to determine presence or absence of burrowing owls on-site. For maximum detectability, a qualified biologist should perform surveys according to protocol (The California Burrowing Owl Consortium, 1993) prior to commencing Project-related activities or the City can assume that all burrows along the roads are occupied by burrowing owls and mitigate accordingly. A preconstruction survey is also warranted if Project activities do not commence within 30 days of completing protocol-level surveys.

Raul Gonzalez
November 23, 2010
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Mitigation Measure BI-1 2. is not adequate mitigation if only one of the five measures is implemented. If burrowing owl occupancy is assumed or if protocol-level surveys detect presence of burrowing owl, all of the following mitigation measures should be implemented (DFG, 1995):

- a. Avoid active burrows by at least 250 feet during the nesting season (February 1 through August 31). Destroy burrows during the non-nesting season (September 1 through January 31) after owls are passively relocated (see d. below).
- b. Offset the loss of foraging and burrow habitat by acquiring and permanently protecting an appropriate amount of land (consult with the Department) at a location adjacent to occupied habitat and acceptable to the Department.
- c. Offset destruction of occupied burrows by enhancing existing unsuitable burrows or creating new artificial burrows at a ratio of 2:1 on the protected land from b.
- d. Passively relocate owls, if they must be moved. Allow one or more weeks to allow the owls to acclimate to alternative burrows.
- e. Provide funding for long-term management and monitoring of the protected land. The monitoring plan should include success criteria, remedial measures, and an annual report to the Department.

Results of all surveys should be submitted to the Department for review and comment prior to commencing Project-related activities.

If the above mitigation measures are implemented, the Project-related impacts to burrowing owl will be less than significant.

If you have any questions regarding these comments, please contact Lisa Gymer, Environmental Scientist, at (559) 243-4014, extension 238 or lgymer@dfg.ca.gov.

Sincerely,


Jeffrey R. Single, Ph.D.
Regional Manager

cc: See Page Three

Raul Gonzalez
November 23, 2010
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cc: MWH
618 Michillinda Avenue, Suite 200
Arcadia, California 91007

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Literature Cited:

California Department of Fish and Game. 1995. Staff report on burrowing owl mitigation; Memorandum, October 17, 1995.

The California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines; April, 1993.